

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion No. 97-10, Request No. 711
Issued May 8, 1997**

Facts:

The inquiring attorney terminated an association with his/her former law firm and now has his/her own law practice. While the inquiring attorney was associated with the law firm, an attorney in the firm commenced representation of Wife as an advocate against Husband in a family court matter which is still pending. Husband disengaged the attorney who had been representing him in the matter, and has retained the inquiring attorney. Wife's attorney challenges the inquiring attorney's representation of Husband charging a conflict of interest, specifically, that the inquiring attorney had access to Wife's file. The inquiring attorney states that while employed at the law firm he did not work on Wife's file, had never met with her, and had no involvement with her case.

Issues Presented:

May the inquiring attorney represent the husband in a family court matter in which an attorney in the inquirer's former law firm undertook the representation of the wife while the inquirer was employed by the firm?

Opinion:

If the inquiring attorney did not acquire knowledge of information relating to the wife or to the pending matter while he/she was associated with the law firm, he/she is not disqualified from representing the husband.

Reasoning:

When a lawyer moves from one law firm to another, Rule 1.10(b) prohibits the lawyer's new firm from representing a person whose interests are materially adverse to those of a client represented by the lawyer's former firm when the matters are the same or substantially related and the lawyer has information protected by Rules 1.6 and 1.9(b).

The Comments to Rule 1.10 provide:

Paragraphs (b) and (c) operate to disqualify the firm only when the lawyer involved has actual knowledge of information protected by Rules 1.6 and 1.9(b). Thus, if a lawyer while with one firm acquired no knowledge of information relating to a particular client

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of the firm, and that lawyer later joined another firm, neither the lawyer individually nor the second firm is disqualified from representing another client in the same or a related matter even though the interest of the two clients conflict.

Access to information protected by Rules 1.6 and 1.9(b) is essentially a question of fact. See Comment to Rule 1.10. The inquiring attorney has effectively represented that he/she has no knowledge of information relating to the wife or to the pending matter. The Panel therefore concludes that Rule 1.10(b) does not disqualify the inquiring attorney from representing the husband in the matter. See R.I. Sup. Ct. Ethics Advisory Panel Op. 94-71(A).